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(Original Signature of Member)

106TH CONGRESS  
2D SESSION

# H. R. 5122

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IN THE HOUSE OF REPRESENTATIVES

Mr. BLILEY introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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## A BILL

To amend the Health Care Quality Improvement Act of 1986 to provide for the availability to the public of information reported to the National Practitioner Data Bank under such Act, to establish additional reporting requirements, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Patient Protection Act  
3 of 2000”.

4 **TITLE I—PUBLIC AVAILABILITY**  
5 **OF PHYSICIAN INFORMATION**  
6 **IN NATIONAL PRACTITIONER**  
7 **DATA BANK**

8 **SEC. 101. PUBLIC AVAILABILITY OF PHYSICIAN INFORMA-**  
9 **TION.**

10 (a) IN GENERAL.—Part B of the Health Care Qual-  
11 ity Improvement Act of 1986 (42 U.S.C. 11131 et seq.)  
12 is amended by inserting after section 427 the following  
13 section:

14 **“SEC. 428. PUBLIC AVAILABILITY OF PHYSICIAN INFORMA-**  
15 **TION.**

16 “(a) IN GENERAL.—Not later than January 31,  
17 2001, the Secretary, notwithstanding any other provision  
18 of this part, shall in accordance with this section promul-  
19 gate regulations under which the public may, through the  
20 method described in subsection (c), obtain information re-  
21 ported under this part on physicians.

22 “(b) LIMITATIONS.—The following information on a  
23 physician may not under subsection (a) be made available  
24 to the public:

25 “(1) Information disclosing the identity of any  
26 patient involved in the incidents involved.

1           “(2) The home address of the physician.

2           “(3) The social security account number of the  
3       physician.

4           “(4) The date of birth of the physician.

5           “(5) The number assigned to the physician by  
6       the Drug Enforcement Administration.

7           “(6) The name, title, and telephone number of  
8       the official with responsibility for submitting the re-  
9       port on behalf of the entity.

10          “(c) USE OF INTERNET.—For purposes of subsection  
11 (a), the method described in this subsection is to make  
12 the information involved available to the public, without  
13 charge, through the telecommunications medium known as  
14 the World Wide Web of the Internet. The Secretary, act-  
15 ing through the Administrator of the Health Resources  
16 and Services Administration, shall provide for the estab-  
17 lishment of a site on such medium, and shall update the  
18 information maintained through such medium not less fre-  
19 quently than monthly.

20          “(d) STATEMENT OF PHYSICIAN.—Regulations under  
21 subsection (a) shall require that each disclosure under  
22 such subsection include any statement that was submitted  
23 under section 426(b) by the physician involved.

24          “(e) CONTEXT OF DISCLOSED INFORMATION ON  
25 MEDICAL MALPRACTICE PAYMENTS.—With respect to in-

1 formation reported under section 421 on a physician, reg-  
2 ulations under subsection (a) shall require that a disclo-  
3 sure of a report under such section be accompanied by  
4 supplemental information in accordance with the fol-  
5 lowing:

6           “(1) For each State for which such a report is  
7       made on the physician:

8           “(A) The information under section 421  
9       shall be presented in context by comparing the  
10      physician involved to the experiences of other  
11      physicians in the same specialty in the same  
12      State.

13          “(B) In disclosing the amount of the pay-  
14      ment reported under section 421(b)(2):

15           “(i) The amount shall be presented in  
16      context by categorizing the amount in a  
17      manner that indicates the level of signifi-  
18      cance of the payment in relation to  
19      amounts reported under such section for  
20      other physicians in the same specialty in  
21      the same State. For such purposes, there  
22      shall be a minimum of three graduated  
23      categories.

24           “(ii) The disclosure shall state wheth-  
25      er the amount was made in settlement (or

1 partial settlement) of, or in satisfaction of  
2 a judgment in, a medical malpractice ac-  
3 tion or claim.)

4 “(2) A statement providing that a payment  
5 made pursuant to a medical malpractice action or  
6 claim may occur for a variety of reasons which do  
7 not necessarily reflect negatively on the professional  
8 competence or conduct of the physician.

9 “(3) A statement providing that a payment  
10 made pursuant to a medical malpractice action or  
11 claim should not be construed as creating a pre-  
12 sumption that medical malpractice has occurred.

13 “(4) A statement providing that some physi-  
14 cians work primarily with high risk patients, and  
15 such physicians may have numbers of medical mal-  
16 practice actions or claims that are higher than aver-  
17 age for their specialties because they specialize in  
18 cases or patients who are at very high risk for med-  
19 ical problems.

20 “(5) A statement providing that—

21 “(A) malpractice histories tend to vary by  
22 specialty, and some specialties are more likely  
23 than others to be the subject of litigation, and

24 “(B) the disclosure and accompanying in-  
25 formation compare physicians only to the mem-

1           bers of their specialty, not to all physicians, in  
2           order to make an individual physician's history  
3           more meaningful.

4           “(6) A statement providing that—

5                 “(A) malpractice histories tend to vary by  
6           State, and due to variations in State laws, phy-  
7           sicians in some States are more likely than  
8           those in other States to be the subject of litiga-  
9           tion, and

10                 “(B) the disclosure and accompanying in-  
11           formation compare physicians only to other  
12           physicians within a given State, not to all physi-  
13           cians, in order to make an individual physi-  
14           cian's history more meaningful.

15           “(f) CONTEXT OF DISCLOSED INFORMATION RE-  
16   GARDING CRIMINAL ACTS.—With respect to information  
17   that under section 422(c) or 424A is reported on a physi-  
18   cian, regulations under subsection (a) shall require that  
19   a disclosure of a report under such a section be accom-  
20   panied by a statement providing that the disclosure may  
21   fail to provide all crime-related information on the physi-  
22   cian because the availability of such information depends  
23   in part on State laws and in part on self-reporting by phy-  
24   sicians.”.

1 (b) DISCLOSURE.—Section 427(b)(1) of the Health  
2 Care Quality Improvement Act of 1986 (42 U.S.C.  
3 11137(b)(1)) is amended by striking “Information re-  
4 ported” and inserting “Except for the disclosure of infor-  
5 mation authorized by this title, information reported”.

6 (c) FEES.—Section 427(b) of the Health Care Qual-  
7 ity Improvement Act of 1986 (42 U.S.C. 11137(b)) is  
8 amended by striking paragraph (4).

9 **TITLE II—REPORTING REQUIRE-**  
10 **MENTS REGARDING NA-**  
11 **TIONAL PRACTITIONER DATA**  
12 **BANK**

13 **SEC. 201. REQUIRING REPORTS ON MEDICAL MAL-**  
14 **PRACTICE PAYMENTS.**

15 Section 421(b) of the Health Care Quality Improve-  
16 ment Act of 1986 (42 U.S.C. 11131(b)) is amended—

17 (1) by redesignating paragraph (5) as para-  
18 graph (6);

19 (2) in paragraph (4), by striking “and” after  
20 the comma at the end; and

21 (3) by inserting after paragraph (4) the fol-  
22 lowing paragraph:

23 “(5) in the case of a physician—

24 “(A) the medical field of the physician, in-  
25 cluding the medical specialty,

1           “(B) the date on which the physician was  
2           first licensed in the medical field and specialty,  
3           and the number of years the physician has been  
4           practicing in such field and specialty, and

5           “(C) the professional license number of the  
6           physician, and the name of the State in which  
7           the license is held, and”.

8   **SEC. 202. REPORTING OF SANCTIONS TAKEN BY BOARDS**  
9           **OF MEDICAL EXAMINERS.**

10       (a) IN GENERAL.—Section 422(a) of the Health Care  
11   Quality Improvement Act of 1986 (42 U.S.C. 11132(a))  
12   is amended—

13       (1) in paragraph (1)(A), by striking “which re-  
14       vokes or suspends” and inserting “which denies, re-  
15       vokes, or suspends”; and

16       (2) in paragraph (2)—

17           (A) in subparagraph (B), by striking “(if  
18           known)” and all that follows and inserting “for  
19           the action described in paragraph (1)(A) that  
20           was taken with respect to the physician or, if  
21           known, for the surrender of the license,”;

22           (B) by redesignating subparagraph (C) as  
23           subparagraph (F);

24           (C) by inserting after subparagraph (B)  
25       the following subparagraphs:



1                   “(C) the medical field of the physician, in-  
2                   cluding the medical specialty,

3                   “(D) the date on which the physician was  
4                   first licensed in the medical field and specialty,  
5                   and the number of years the physician has been  
6                   practicing in such field and specialty, and

7                   “(E) the professional license number of the  
8                   physician, and the name of the State in which  
9                   the license is held, and”.

10           (b) CRIMINAL ACTS OF PHYSICIANS.—Section 422 of  
11 the Health Care Quality Improvement Act of 1986 (42  
12 U.S.C. 11132) is amended by adding at the end the fol-  
13 lowing subsection:

14           “(c) CRIMINAL ACTS OF PHYSICIANS.—

15                   “(1) IN GENERAL.—Each Board of Medical Ex-  
16                   aminers shall report, in accordance with section 424,  
17                   the information described in paragraph (2), to the  
18                   extent that the information is collected by such  
19                   Board.

20                   “(2) INFORMATION TO BE REPORTED.—With  
21                   respect to the Board of Medical Examiners of a  
22                   State, the information to be reported under para-  
23                   graph (1) is as follows:

1           “(A) A description of felony convictions of  
2           physicians in courts of the State or other  
3           States.

4           “(B) A description of such misdemeanor  
5           convictions of physicians in such courts as in  
6           the Secretary’s discretion may reflect on quality  
7           health matters.

8           “(C) A description of any criminal charges  
9           in such courts to which the physician pled nolo  
10          contendere.”.

11       (c) CONTEXTUAL INFORMATION REGARDING DIS-  
12 CLOSURES OF PHYSICIAN INFORMATION.—Section 422 of  
13 the Health Care Quality Improvement Act of 1986, as  
14 amended by subsection (b) of this section, is amended by  
15 adding at the end the following subsection:

16       “(d) CONTEXTUAL INFORMATION REGARDING DIS-  
17 CLOSURES OF PHYSICIAN INFORMATION.—Each Board of  
18 Medical Examiners shall, in accordance with section 424,  
19 report to the Secretary such information as the Secretary  
20 may request from the Board for purposes of assisting the  
21 Secretary in making disclosures in accordance with section  
22 428(e), to the extent that such information is collected by  
23 such Board.”.

24       (d) CONFORMING AMENDMENT.—Subsections (a)  
25 and (b) of section 424 of the Health Care Quality Im-

1 provement Act of 1986 (42 U.S.C. 11134) are each  
2 amended by striking “section 422(a)” and inserting “sec-  
3 tion 422”.

4 **SEC. 203. REPORTING OF CERTAIN PROFESSIONAL REVIEW**  
5 **ACTIONS TAKEN BY HEALTH CARE ENTITIES.**

6 (a) IN GENERAL.—Section 423(a)(3) of the Health  
7 Care Quality Improvement Act of 1986 (42 U.S.C.  
8 11133(a)(3)) is amended—

9 (1) in subparagraph (B), by striking “and”  
10 after “surrender,”;

11 (2) by redesignating subparagraph (C) as sub-  
12 paragraph (D); and

13 (3) by inserting after subparagraph (B) the fol-  
14 lowing subparagraph:

15 “(C) in the case of a physician—

16 “(i) the medical field of the physician,  
17 including the medical specialty,

18 “(ii) the date on which the physician  
19 was first licensed in the medical field and  
20 specialty, and the number of years the  
21 physician has been practicing in such field  
22 and specialty, and

23 “(iii) the professional license number  
24 of the physician, and the name of the State  
25 in which the license is held, and”.

1 (b) APPLICABILITY OF REQUIREMENTS TO FEDERAL  
2 ENTITIES.—

3 (1) IN GENERAL.—Section 423 of the Health  
4 Care Quality Improvement Act of 1986 (42 U.S.C.  
5 11133) is amended by adding at the end the fol-  
6 lowing subsection:

7 “(e) APPLICABILITY TO FEDERAL FACILITIES AND  
8 PHYSICIANS.—

9 “(1) IN GENERAL.—Subsection (a) applies to  
10 Federal health facilities (including hospitals) and ac-  
11 tions by such facilities regarding the competence or  
12 professional conduct of Federal physicians to the  
13 same extent and in the same manner as such sub-  
14 section applies to health care entities and profes-  
15 sional review actions.

16 “(2) RELEVANT BOARD OF MEDICAL EXAM-  
17 INERS.—For purposes of paragraph (1), the Board  
18 of Medical Examiners to which a Federal health fa-  
19 cility is to report is the Board of Medical Examiners  
20 of the State within which the facility is located.”.

21 (2) CONFORMING AMENDMENT.—Section 432  
22 of the Health Care Quality Improvement Act of  
23 1986 (42 U.S.C. 11152) is amended—

24 (A) by striking subsection (b); and

1 (B) by redesignating subsection (c) as sub-  
2 section (b).

3 **SEC. 204. PHYSICIAN SELF-REPORTING REGARDING FEL-**  
4 **ONY CONVICTIONS.**

5 Part B of the Health Care Quality Improvement Act  
6 of 1986 (42 U.S.C. 11131 et seq.) is amended by inserting  
7 after section 424 the following section:

8 **“SEC. 424A. PHYSICIAN SELF-REPORTING REGARDING FEL-**  
9 **ONY CONVICTIONS.**

10 “(a) IN GENERAL.—Each physician shall report, in  
11 accordance with subsection (b), each felony conviction of  
12 the physician.

13 “(b) FORM OF REPORTING.—The information re-  
14 quired to be reported under subsection (a) shall—

15 “(1) be reported regularly (but not less often  
16 than monthly) and in such form and manner as the  
17 Secretary prescribes, and

18 “(2) be reported to the Secretary, or, in the  
19 Secretary’s discretion, to the agency described in  
20 section 424(b).

21 “(c) SANCTIONS FOR FAILURE TO REPORT.—Any  
22 physician who fails to report information on a felony con-  
23 viction required to be reported under this section shall be  
24 subject to a civil money penalty of not more than \$10,000  
25 for each such failure to report. Such penalty shall be im-

1 posed and collected in the same manner as civil money  
2 penalties under subsection (a) of section 1128A of the So-  
3 cial Security Act are imposed and collected under that sec-  
4 tion.”.

5 **SEC. 205. NOTICE TO PRACTITIONERS; CORRECTION OF IN-**  
6 **FORMATION.**

7 Section 426 of the Health Care Quality Improvement  
8 Act of 1986 (42 U.S.C. 11136) is amended—

9 (1) by inserting “(a) IN GENERAL.—” before  
10 “With respect to”;

11 (2) in subsection (a) (as so designated), in  
12 paragraph (1), by striking “, upon request,”; and

13 (3) by adding at the end the following sub-  
14 section:

15 “(b) STATEMENT OF PRACTITIONER.—

16 “(1) IN GENERAL.—With respect to informa-  
17 tion reported under this part, if the physician or  
18 other licensed health care practitioner involved sub-  
19 mits to the Secretary a statement regarding the in-  
20 formation so reported, the statement shall be made  
21 a part of the report involved, subject to paragraph  
22 (2). Such a statement may be made at any time, and  
23 may be revised.

24 “(2) LENGTH OF STATEMENT.—Paragraph (1)  
25 applies to a statement by a physician or other li-

1 censed health care practitioner only if the statement  
2 does not exceed 4,000 characters, including spaces  
3 and punctuation.

4 “(3) NOTICE.—In carrying out subsection  
5 (a)(1), the Secretary shall inform the practitioner in-  
6 volved that a statement under paragraph (1) may be  
7 submitted, and that the statement is subject to the  
8 limitation described in paragraph (2).”.

### 9 **TITLE III—DUTY TO OBTAIN** 10 **INFORMATION**

#### 11 **SEC. 301. DUTY OF HOSPITALS TO OBTAIN INFORMATION.**

12 Section 425 of the Health Care Quality Improvement  
13 Act of 1986 (42 U.S.C. 11135) is amended by adding at  
14 the end the following subsection:

15 “(d) APPLICABILITY TO FEDERAL HOSPITALS.—  
16 This section applies to Federal hospitals to the same ex-  
17 tent and in the same manner as such subsection applies  
18 to other hospitals.”.

#### 19 **SEC. 302. DUTY OF BOARDS OF MEDICAL EXAMINERS TO** 20 **OBTAIN INFORMATION.**

21 Part B of the Health Care Quality Improvement Act  
22 of 1986 (42 U.S.C. 11131 et seq.) is amended by inserting  
23 after section 425 the following section:

1   **“SEC. 425A. DUTY OF BOARDS OF MEDICAL EXAMINERS TO**  
2                   **OBTAIN INFORMATION.**

3           “(a) IN GENERAL.—Effective six months after the  
4 date of the enactment of the Patient Protection Act of  
5 2000, it is the duty of each Board of Medical Examiners  
6 to request from the Secretary (or the agency designated  
7 under section 424(b)) information reported under this  
8 part concerning a physician—

9                   “(1) at the time the physician submits the ini-  
10 tial application for a physician’s license in the State  
11 involved, and

12                   “(2) at each time the physician submits an ap-  
13 plication to continue in effect the license.

14 A Board of Medical Examiners may request information  
15 reported under this part concerning a physician at other  
16 times.

17           “(b) FAILURE TO OBTAIN INFORMATION.—With re-  
18 spect to an action for mandamus or other cause of action  
19 against a Board of Medical Examiners, a Board which  
20 does not request information respecting a physician as re-  
21 quired under subsection (a) is presumed to have knowl-  
22 edge of any information reported under this part to the  
23 Secretary with respect to the physician.

24           “(c) RELIANCE ON INFORMATION PROVIDED.—With  
25 respect to a cause of action against a Board of Medical  
26 Examiners, each Board of Medical Examiners may rely



1 upon information provided to the Board under this title,  
2 unless the Board has knowledge that the information pro-  
3 vided was false.”.

## 4 **TITLE IV—GENERAL** 5 **PROVISIONS**

### 6 **SEC. 401. REQUEST OF BOARD OF MEDICAL EXAMINERS RE-** 7 **GARDING PHYSICIAN INFORMATION IN NA-** 8 **TIONAL PRACTITIONER DATA BANK.**

9 Section 427(a) of the Health Care Quality Improve-  
10 ment Act of 1986 (42 U.S.C. 11137(a)) is amended by  
11 adding at the end the following: “The Secretary (or the  
12 agency designated under section 424(b)) shall, upon re-  
13 quest, provide the Board of Medical Examiners of a State  
14 a summary of information reported under this part on  
15 physicians who are licensed in that State. For each physi-  
16 cian included in such a summary, the summary shall at  
17 a minimum provide the name, address, total number of  
18 reports of such information, and the number of reports  
19 for each report type.”.

### 20 **SEC. 402. REGULATIONS; EFFECTIVE DATE.**

21 The Secretary of Health and Human Services shall  
22 promulgate a final rule to implement the amendments  
23 made by this Act not later than January 31, 2001. Such  
24 amendments take effect 30 days after the date on which  
25 such final rule is promulgated.